



Department of Conservation & Recreation

CONSERVING VIRGINIA'S NATURAL AND RECREATIONAL RESOURCES

## LOCAL ESC PROGRAM REVIEW CHECKLIST

Local Program:

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**Introduction:** The review of local program effectiveness is a responsibility of the Soil and Water Conservation Board as defined in the Virginia Erosion and Sediment Control Law (VESCL), §10.1-561E, which states that the *“Board shall periodically conduct a comprehensive review and evaluation to ensure that all erosion and sediment control programs operating under the jurisdiction of this article meet minimum standards of effectiveness in controlling soil erosion, sediment deposition and nonagricultural runoff.”*

The minimum standards for the effective control of soil erosion, sediment deposition and nonagricultural runoff are contained in the Virginia Erosion and Sediment Control Regulations (VESCR) 4VAC50-30-40.1-19. The criteria to determine whether a local program satisfies the minimum standards of effectiveness are contained in the VESCR, 4VAC50-30-90A and B. This checklist addresses the criteria for each of the four program areas: Administration, Plan Review, Inspection and Enforcement.

Items in **bold** are required components of a local program under the VESCL or the VESCR. Items marked with an asterisk, while not required, must be implemented in accordance with the VESCL and VESCR when utilized. Optional items provided by local programs but not required by the VESCL or VESCR are listed at the end of the checklist for each of the four component areas. These local program enhancements are recognized as increasing the effectiveness of local erosion and sediment control programs.

### PART I: ADMINISTRATION

#### Certification

VA Code	Yes	No	Criteria
§10.1-561.1 4VAC50-50-40			<b>Local program is administered by a certified Program Administrator</b>
§10.1-561.1 4VAC50-50-40			<b>All plans are reviewed by a certified Plan Reviewer</b>
§10.1-561.1 4VAC50-50-40			<b>All inspections are performed by a certified Inspector</b>

Comment

#### Program Administration

§10.1-563A, B §10.1-565			<b>Locality does not allow land-disturbing activity without an approved plan or an agreement in lieu of a plan and does not issue building, grading or other permits without submittal of an approved plan and certification that the plan will be followed</b>
§10.1-563B			<b>Locality requires the person responsible for carrying out the plan to provide of the name of an individual holding a certificate of competence as a prerequisite to engaging in all land-disturbing activities, except when properly waived for a single family residence</b>
§10.1-566.1			<b>Locality reports land-disturbing activities to DCR in the method and on the time schedule established by the Department.</b>
4VAC50-30-90A.3			<b>Locality maintains a copy of the approved plan and a record of inspections for each active land-disturbing activity</b>
4VAC50-30-90A.4			<b>Locality maintains a record of enforcement actions for all active land-disturbing activities</b>

Comment:



# DCR

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### Local ESC Ordinance

VA Code	Yes	No	Local Code if Needed	Criteria
4VAC50-30-90A				Authority section referencing state code*
Comment:				
§10.1-560				Definitions:
				Agreement in Lieu of a plan for single family residences*
				Applicant*
				Certified Inspector*
				Certified Plan Reviewer*
				Certified Program Administrator*
				Conservation Plan, ESC Plan or Plan*
				District or Soil & Water Conservation District (SWCD)*
				Erosion Impact Area*
				<b>Land-disturbing Activity</b>
				<b>Exclusions:</b>
				<b>Minor land-disturbing activities (landscaping, home gardening, etc.)</b>
				<b>Individual service connections</b>
				<b>Underground utilities on hard surface roads</b>
				<b>Septic systems</b>
				<b>Mining</b>
				<b>Exploration for gas and oil</b>
				<b>Agricultural, silvicultural, horticultural, &amp; agricultural engineering:</b>
				<b>Exception for ponds required to comply with the Dam Safety Act</b>
				<b>Forestry exception (requirement to reforest or convert to bona fide agriculture or improved pasture use)</b>
				<b>Railroad repair, rebuilding, other facilities</b>
				<b>Less than 10,000 square feet (may be reduced)</b>
				<b>Fence, post, poles, signs</b>
				<b>Shore erosion control projects (Not required for localities outside of tidal waters)</b>
				<b>Exception for lands outside the authority of local wetlands boards, the Marine Resources Commission or the US Army Corps of Engineers</b>
				<b>Emergency Work</b>
				Owner*
				Natural Channel Design Concepts*
				Permittee*
				Person*
				Plan-Approving Authority*
				Program Authority*
Comment:				



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VA Code	Yes	No	Local Code if Needed	Criteria
4VAC-50-30-90A				Local Program
				<b>Designate Program Authority</b>
				<b>Designate Plan Approving Authority</b>
				<b>Designate Inspection Responsibility</b>
				<b>Adopt VESCR or more stringent standards as an integral part of the program</b>
				<b>Designate design standards to be used in plan review and inspection (VESCH, VSWMH, local manual, etc.)</b>
Comment:				
§10.1-563				Regulated Land-disturbing Activities: Submission and Approval of Plans
§10.1-561A				<b>Exemption from flow rate capacity and velocity requirements for stream restoration and relocation projects that incorporate natural channel design concepts</b>
§10.1-561A				<b>Exemption from flow rate capacity and velocity requirements for channels in land-disturbing activities that provide for stormwater management with practices designed in accordance with §10.1-561A</b>
§10.1-563A				<b>No land-disturbing activity allowed without an approved plan or agreement in lieu of a plan</b>
§10.1-563B				<b>Requirement for the person responsible for carrying out the plan to provide of the name of an individual holding a certificate of competence as a prerequisite to engaging in land-disturbing activity</b>
§10.1-563B				<b>Written notice of approval or disapproval within 45 days.</b>
§10.1-563C				<b>Specification of changes that will permit approval of the plan.</b>
				<b>Approved plan can be changed if:</b>
				<b>Inspection reveals inadequacy (agreement not required)</b>
				<b>Due to changed circumstances or for other reasons the approved plan cannot be carried and amendments to the plan are agreed to by the plan-approving authority and the person responsible for carrying out the plan.</b>
4VAC50-30-50				Variances must be requested and approved in writing*
§10.1-563G				<b>Owner is responsible for preparation, submission and approval of plan</b>
Comment:				
§10.1-565				Approved plan required for issuance of permit, securities
§10.1-565				<b>No permits issued which authorize land-disturbing activity without approved erosion and sediment control plan</b>
§10.1-565				<b>Certification that the approved plan will be followed prior to permit issuance</b>
§10.1-563B				<b>RLD to be designated prior to land disturbing activity</b>
				<b>Will require RLD for an Agreement in Lieu of Plan</b>
				<b>Will waive RLD requirement for an Agreement in Lieu of Plan</b>
§10.1-565				Provision to require security or performance guarantee*
				Refund of security within 60 days of adequate stabilization*
Comment:				



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VA Code	Yes	No	Local Code if Needed	Criteria
§10.1-566				Monitoring, Inspections
4VAC50-30-60B				<b>Locality must provide for specified inspection frequency per 4VAC50-30-60B</b>
§10.1-566A				<b>Notice of inspection given to responsible party</b>
§10.1-566A				<b>Provisions for issuing notice to comply (or equivalent action)</b>
§10.1-566A				<b>Provisions for issuing stop work order (or equivalent action)</b>
§10.1-569				
§10.1-566A				<b>Provisions for revoking permit</b>
Comment:				
§10.1-568				Appeals
				<b>Right to Appeal Local Program Decisions within 30 days</b>
				Right to Appeal SWCD Decisions within 30 days*
Comment:				
§10.1-569				Penalties and Other Legal Actions
§10.1-569				<b>Class I Misdemeanor and / or the schedule of civil penalties</b>
§10.1-562J				Civil fines/Civil Charges/Administrative Fines*
Comment:				

Local Program Enhancement Options (For recognition only. No points provided)		
Code		Enhancement Option
VESCH		Locality issues a land-disturbing permit
§10.1-562I		Locality charges plan review/ land disturbance permit fees
§10.1-562I		Fees charged by the locality are sufficient to defray the cost of program administration
VESCH		Locality requires a pre-construction conference for all land disturbing activities
VESCH		Locality conducts information programs for the general public or for the development community to explain the ESC program requirements and promote compliance
		Locality has developed an ESC plan/permit application package that includes a standard application form and user-friendly instructions for conducting land-disturbing activities
		Locality uses a database or attaches a standard tracking/summary sheet to the project folder to list dates of:
		ESC plan submittal and approval
		Project start and finish
		Any other information the County finds pertinent such as performance guarantee amount and approval date
		Locality organizes ESC documents by project rather than date
Comment:		



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### PART II: PLAN REVIEW: See attached Plan Review Checklists

Code	Yes	No	Criteria
§10.1-563B			<b>For all plans, written notice of approval or disapproval of the plan is communicated within 45 days of receipt</b>
§10.1-563B			<b>All disapproval notices state the specific reasons for disapproval and specify the modifications, terms, and conditions that will permit approval of the plan</b>
§10.1-563B 4VAC50-30-50			<b>Approved plans comply with state Minimum Standards or an appropriate variance is granted</b>
			All reviewed plans meet the applicable Minimum Standards
			At least 70% of reviewed plans meet the applicable Minimum Standards
			Less than 70% of reviewed plans meet the applicable Minimum Standards
4VAC50-30-60A			<b>A statement describing the maintenance responsibilities of the permittee for ESC structures and systems is included in all approved plans</b>
4VAC50-30-80.D			<b>On all plans, land-disturbing activity occurring at a separate location is shown on the approved plan or has a separate approved plan or there is no offsite activity</b>
4VAC50-30-90A.2			<b>Content of approved plans meets the design standards of Chapter 3 of the VESCH or locally adopted design standards</b>
			All reviewed plans meet the design standards
			At least 70% of reviewed plans meet the design standards
			Less than 70% of reviewed plans meet the design standards
4VAC50-30-50			Approved variances are documented in the plan or approved in writing or variance is not required*
Comment:			

### Local Program Enhancement Options (For recognition only. No points provided)

Code	Enhancement Option
4VAC50-30-40.19f	Maintenance agreements for permanent facilities are required for plan approval
VESCH	Plan preparers and plan reviewers use standard plan review checklists and the completed checklists are maintained in the project file
VESCH	A complete Narrative is required on the approved plan
VESCH	Plan reviewers visit sites prior to plan approval
VESCH	Opportunity for inspector review and recommendation is incorporated into the plan review process
VESCH	When plan review is provided by a SWCD or other outside source, the plan reviewer meets with the inspector(s) prior to commencement of land disturbing activity
	Lot by lot grading plans are required for plan approval of subdivision projects
	All plans are stamped and dated upon approval
Comment:	



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### PART III: INSPECTION: See attached **Inspection Checklists**

Code	Yes	No	Criteria
4VAC50-30-60A			<b>ESC structures and systems are repaired and maintained or violations are noted in inspection reports</b>
			On all sites visited ESC structures and systems are repaired and maintained or violations are noted in inspection reports
			On at least 70% of sites visited ESC structures and systems are repaired and maintained or violations are noted in inspection reports
			On less than 70% of sites visited ESC structures and systems are repaired and maintained or violations are noted in inspection reports
4VAC50-30-60B			<b>At all sites, inspections are provided during or immediately following initial installation of ESC controls</b>
4VAC50-30-60B			<b>Periodic inspections are provided at the required frequency including Alternative Inspection Programs</b>
			All visited sites meet the required inspection frequency
			At least 70% of visited sites meet the required inspection frequency
			Less than 70% of visited sites meet the required inspection frequency
4VAC50-30-60B			<b>At completed sites, inspections are provided at the completion of the project and prior to release of any performance bonds</b>
			At least 70% of the visited sites were inspected at project completion or no completed sites were visited
			Less than 70% of the visited sites were inspected at project completion
§10.1-566A 4VAC50-30-90A.3			<b>The proper party is given notice of inspection and inspections are documented by inspection reports or recorded in an inspection log if no violations are observed</b>
4VAC50-30-90A.4			<b>On all inspection reports, all violations are noted and corrective actions with completion deadlines are specified</b>
§10.1-566A			<b>The proper party is given notice of violations</b>
4VAC50-30-40 4VAC50-30-90A.4			<b>Sites visited during the program review process comply with the approved plan and applicable VESCR Minimum Standards or local action is taken</b>
			All visited sites comply with the plan and the applicable Minimum Standards or action is taken
			At least 70% of visited sites comply with the plan and the applicable Minimum Standards or action is taken
			Less than 70% of visited sites comply with the plan and the applicable Minimum Standards and action is not taken
Comment:			

### Local Program Enhancement Options (For recognition only. No points provided)

Code	Enhancement Option
4VAC50-30-60B.2	The locality has implemented a Board-approved Alternative Inspection Program
§10.1-566A(ii)	The responsible party is required to submit monitoring reports to the plan-approving or permit-issuing authority
VESCH	A pre-construction meeting is held on all sites requiring a plan
	Locality has developed a standard inspection report form
	Duplicate copies of inspection reports are left on-site with the responsible party
	As-built documentation is required for all permanent SWM facilities installed to meet MS 19
Comment:	



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### PART IV: ENFORCEMENT: See attached **Enforcement Checklists**

Code	Yes	No	Criteria
4VAC50-30-40 4VAC50-30-90A.4			<b>When violations of the approved plan or applicable Minimum Standards are observed, Inspection reports document all violations of the approved plan and applicable Minimum Standards and enforcement action (specific corrective actions with completion deadlines) is initiated</b>
			Violations are documented and enforcement action is initiated at all times
			Violations are documented and enforcement action is initiated at least 70% of the time
			Violations are documented and enforcement action is initiated less than 70% of the time
§10.1-566A 4VAC50-30-90A.4			<b>When violations noted on inspection reports remain during subsequent inspection, a notice to comply (or equivalent higher level enforcement action) is issued</b>
			Notice to Comply or equivalent higher level action is issued at all times or corrective action process adequately resolved all issues of non-compliance
			Notice to Comply or equivalent higher level action is issued at least 70% of the time
			Notice to Comply or equivalent higher level action is issued less than 70% of the time
§10.1-566A 4VAC50-30-90A.4			<b>All notices to comply (or equivalent enforcement actions) contain specific measures or corrections that need to be made and specify deadlines for completion or higher level enforcement not needed</b>
§10.1-566C 4VAC50-30-90A.4			<b>Advanced enforcement such as stop work orders (or equivalent actions) are issued when inspection subsequent to a notice to comply (or other equivalent action) finds continuing violation(s) or when land-disturbing activities commence without an approved plan or when violations are causing or are in imminent danger of causing harmful erosion</b>
			Advanced enforcement is taken at all times or advanced enforcement not needed
			Advanced enforcement is taken at least 70% of the time
			Advanced enforcement is taken less than 70% of the time

### Local Program Enhancement Options (For recognition only. No points provided)

Code	Enhancement Option
§10.1-562J §10.1-569	Locality has adopted a schedule of civil penalties and fines and uses such as another means of enforcement*
§10.1-562J	Locality has developed a schedule of civil charges/administrative fines*
	Locality has developed an enforcement policy utilizing other mechanisms to secure compliance, such as revocation of permit and revocation of performance bonds
	Locality has developed standard enforcement documents
	Locality has disseminated an enforcement policy to the development community

Comment: